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<b>UNITED STATES SECURITIES AND</b>	)	
<b>EXCHANGE COMMISSION,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>Case No. 16-cv-03885</b>
	)	
<b>v.</b>	)	Judge Sara L. Ellis
	)	Mag. Judge: Sidney I. Schenkier
<b>DANIEL C. USTIAN,</b>	)	
	)	
<b>Defendant.</b>	)	

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Attorneys for SEC

Plaintiff United States Securities and Exchange Commission (“SEC”) respectfully files this motion (“Motion”) asking the Court to enter, by consent, a proposed Judgment (“Proposed Judgment”) as to Defendant Daniel Ustian (“Ustian”). Copies of the consent and Proposed Judgment are attached hereto as Exhibit A. In support of the Motion, the SEC states:

1. The SEC’s First Amended Complaint (“Complaint”) alleges that Ustian, the former CEO of Navistar International Corporation (“Navistar”), made misstatements and engaged in other deceptive conduct relating to whether Navistar had successfully developed heavy-duty diesel engines that could deliver competitive fuel economy and performance and also be certified as compliant with applicable federal emissions standards. (Docket No. 67).

2. The SEC and Ustian have agreed, in partial settlement of the SEC’s claims, to entry of the Proposed Judgment. The Proposed Judgment eliminates the need to conduct a jury trial over Ustian’s liability. It also permanently enjoins Ustian from violations of each of the provisions of the federal securities laws presently at issue in the Complaint and orders Ustian to pay a total amount of \$500,000, comprised of \$250,000 in disgorgement and a \$250,000 civil penalty.

3. The Proposed Judgment provides that the remaining relief sought by the SEC – an officer and director bar against Ustian – shall be resolved by the Court at a later date. For the purpose of that determination, the parties agree that the Court would accept the allegations in the Complaint as true. (*See* Consent, Ex. A, at ¶ 4). This type of partial settlement in SEC enforcement actions is referred to as a “bifurcated” settlement. *See SEC v. Williky*, 942 F.3d 389, 391 (7<sup>th</sup> Cir. 2019).

4. In Ustian's Consent, he agrees that the SEC "may present the [Proposed] Judgment to the Court for signature and without further notice." (Consent, Ex. A., at ¶ 14).

WHEREFORE, for the foregoing reasons, the SEC respectfully requests that the Court (i) grant this Motion in its entirety; (ii) enter the Proposed Judgment; and (iii) award such other and further relief as this Court deems just.

Dated: February 21, 2020

Respectfully submitted,

**UNITED STATES SECURITIES  
AND EXCHANGE  
COMMISSION**

/s/ Eric M. Phillips  
By: One of Its Attorneys

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## **CERTIFICATE OF SERVICE**

The undersigned, an attorney, hereby certifies that on February 21, 2020, a copy of the foregoing Motion was served upon the following counsel by the Court's CM/ECF system:

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/s/ Eric M. Phillips

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